



General Assembly

January Session, 2009

**Committee Bill No. 291**

LCO No. 4107

\*04107SB00291INS\*

Referred to Committee on Insurance and Real Estate

Introduced by:  
(INS)

**AN ACT CONCERNING HOMEOWNERS INSURANCE POLICIES FOR  
PEOPLE WHO OWN DOGS THAT HAVE BITTEN A PERSON.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 38a-686 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 The following standards, methods and criteria shall apply to the  
4 making and use of rates pertaining to personal risk insurance:

5 (a) Rates shall not be excessive, inadequate or unfairly  
6 discriminatory.

7 (1) A rate in a competitive market is not excessive. A rate in a  
8 noncompetitive market including a rate for insurance provided  
9 pursuant to sections 38a-328, 38a-329 and 38a-670 is excessive if it is  
10 unreasonably high for the insurance provided.

11 (2) No rate shall be held inadequate unless (A) it is unreasonably  
12 low for the insurance provided, and (B) continued use of it would  
13 endanger solvency of the insurer, or unless (C) such rate is  
14 unreasonably low for the insurance provided and the use of such rate

15 by the insurer using same has, or, if continued will have, the effect of  
16 destroying competition or creating a monopoly.

17 (b) In determining whether rates comply with the excessiveness  
18 standard in a noncompetitive market under subdivision (1) of  
19 subsection (a) of this section, the inadequacy standard under  
20 subdivision (2) of subsection (a) of this section and the requirement  
21 that rates not be unfairly discriminatory, the following criteria shall  
22 apply:

23 (1) Consideration may be given, to the extent possible, to past and  
24 prospective loss experience within and outside this state, to  
25 conflagration and catastrophe hazards, to a reasonable margin for  
26 underwriting profit and contingencies, to past and prospective  
27 expenses both country-wide and those specially applicable to this  
28 state, to investment income earned or realized by insurers both from  
29 their unearned premium and loss reserve funds, and to all other  
30 factors, including judgment factors, deemed relevant within and  
31 outside this state and in the case of fire insurance rates, consideration  
32 may be given to the experience of the fire insurance business during  
33 the most recent five-year period for which such experience is available.  
34 Consideration may be given in the making and use of rates to  
35 dividends, savings or unabsorbed premium deposits allowed or  
36 returned by insurers to their policyholders, members or subscribers.

37 (2) The systems of expense provisions included in the rates for use  
38 by an insurer or group of insurers may differ from those of other  
39 insurers or groups of insurers to reflect the operating methods of any  
40 such insurer or group with respect to any kind of insurance, or with  
41 respect to any subdivision or combination thereof.

42 (3) Risks may be grouped by classifications for the establishment of  
43 rates and minimum premiums, provided that with respect to private  
44 passenger nonfleet automobile insurance, any change in territorial  
45 classifications shall be subject to prior approval by the Insurance  
46 Commissioner, and provided no surcharge on any motor vehicle

47 liability or physical damage insurance premium may be assigned for  
48 (A) any accident involving only property damage of one thousand  
49 dollars or less, or (B) the first accident involving only property damage  
50 of more than one thousand dollars which would otherwise result in a  
51 surcharge to the policy of the insured, within the experience period set  
52 forth in the insurer's safe driver classification plan, or (C) any violation  
53 of section 14-219 unless such violation results in the suspension or  
54 revocation of the operator's license under section 14-111b, or (D) less  
55 than three violations of section 14-218a within any one-year period, or  
56 (E) any accident caused by an operator other than the named insured,  
57 a relative residing in the named insured's household, or a person who  
58 customarily operates the insured vehicle, or (F) the first or second  
59 accident within the current experience period in relation to which the  
60 insured was not convicted of a moving traffic violation and was not at  
61 fault, or (G) any motor vehicle infraction. Subparagraph (G) of this  
62 subdivision shall not be applicable to any plan established pursuant to  
63 section 38a-329. Classification rates may be modified to produce rates  
64 for individual risks in accordance with rating plans which provide for  
65 recognition of variations in hazards or expense provisions or both.  
66 Such rating plans may include application of the judgment of the  
67 insurer and may measure any differences among risks that can be  
68 demonstrated to have a probable effect upon losses or expenses.

69 (4) Each rating plan shall establish appropriate eligibility criteria for  
70 determining significant risks which are to qualify under the plan.  
71 Rating plans [which] that comply with the provisions of this  
72 subdivision shall be deemed to produce rates [which] that are not  
73 unfairly discriminatory.

74 (c) Notwithstanding the provisions of subsections (a) and (b) of this  
75 section, no rate shall include any adjustment designed to recover  
76 underwriting or operating losses incurred out-of-state.

77 (d) With respect to a homeowners insurance policy, an insurer shall  
78 not cancel or refuse to deliver, issue for delivery, renew, amend or

79 continue such policy solely on the basis of the homeowner's ownership  
80 of a dog that has bitten a person or animal. At the homeowner's  
81 election, the insurer shall offer to such owner the option of excluding  
82 liability for such dog from such policy or a rider for such dog. The rate  
83 for such rider shall not be excessive, inadequate or unfairly  
84 discriminatory. If a homeowner elects to exclude liability for such dog  
85 from such owner's homeowners insurance policy, the insurer shall not  
86 be held strictly liable under section 38a-321, as amended by this act.

87 [(d)] (e) The commissioner may adopt regulations, in accordance  
88 with the provisions of chapter 54, concerning rating plans to effectuate  
89 the provisions of this section.

90 Sec. 2. Section 38a-321 of the general statutes is repealed and the  
91 following is substituted in lieu thereof (*Effective October 1, 2009*):

92 [Each] Except as provided in subsection (d) of section 38a-686, as  
93 amended by this act, each insurance company [which] that issues a  
94 policy to any person, firm or corporation, insuring against loss or  
95 damage on account of the bodily injury or death by accident of any  
96 person, or damage to the property of any person, for which loss or  
97 damage such person, firm or corporation is legally responsible, shall,  
98 whenever a loss occurs under such policy, become [absolutely] strictly  
99 liable, and the payment of such loss shall not depend upon the  
100 satisfaction by the assured of a final judgment against him for loss,  
101 damage or death occasioned by such casualty. No such contract of  
102 insurance shall be cancelled or annulled by any agreement between the  
103 insurance company and the assured after the assured has become  
104 responsible for such loss or damage, and any such cancellation or  
105 annulment shall be void. Upon the recovery of a final judgment  
106 against any person, firm or corporation by any person, including  
107 administrators or executors, for loss or damage on account of bodily  
108 injury or death or damage to property, if the defendant in such action  
109 was insured against such loss or damage at the time when the right of  
110 action arose and if such judgment is not satisfied within thirty days

111 after the date when it was rendered, such judgment creditor shall be  
112 subrogated to all the rights of the defendant and shall have a right of  
113 action against the insurer to the same extent that the defendant in such  
114 action could have enforced his claim against such insurer had such  
115 defendant paid such judgment.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	38a-686
Sec. 2	<i>October 1, 2009</i>	38a-321

***Statement of Purpose:***

To prohibit insurers from cancelling or refusing to issue personal risk insurance policies for homeowners who own a dog that has bitten a person.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors: SEN. MEYER, 12th Dist.; REP. LESSER, 100th Dist.

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